

ELMORE COUNTY ORDINANCE NO. 80-1

AN ORDINANCE PROHIBITING THE LOCATION OF STORES SELLING CERTAIN MATERIALS OFFENSIVE TO PUBLIC DECENCY, TO PROVIDE FOR PENALTIES FOR VIOLATION, TO PROVIDE FOR RESTRAINING ORDERS, AND TO PROVIDE FOR EXEMPTION FROM LIABILITY FOR ACTS TO ENFORCE THE PROVISIONS OF THE SECTION; PROVIDING FOR SEVERABILITY; DECLARING AN EMERGENCY AND PROVIDING FOR RETROACTIVE APPLICATION.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF ELMORE COUNTY, IDAHO, IN LAWFUL MEETING ASSEMBLED:

Section 1. For the purpose of providing for the safety and health and promoting the good order, comfort and convenience of Elmore County and the inhabitants thereof, and for the protection of persons and property therein, this Ordinance is hereby enacted to prevent the location of stores within Elmore County, State of Idaho, which primarily sell pornographic material within twenty-five hundred (2500) feet of any church or school.

Section 2. (a) From and after January 1, 1980, no person or entity shall own or operate within the County of Elmore, State of Idaho, any store, shop or business which sells or rents any materials defined as obscene materials in chapter 15, title 18, Idaho Code, within twenty-five hundred (2500) feet of any school, church, or place of worship measured in a straight line to the nearest entrance to the premises.

(b) From and after January 1, 1980, no person or entity shall own or operate any store, shop or business within the County of Elmore, State of Idaho, which sells or rents any materials defined in subsection 1 of section 18-1515, Idaho Code, where such materials constitute ten percent (10%) or more of the stock of such store, shop or business, within twenty-five hundred (2500)

feet of any school, church, or place of worship measured in a straight line to the nearest entrance to the premises.

(c) A violation of subsection (a) or subsection (b) of this section shall be a misdemeanor, punishable by imprisonment in the Elmore County jail not exceeding six (6) months or by a fine not exceeding Three hundred Dollars (\$300.00) or both.

(d) A judge of a court of competent jurisdiction shall immediately insure a temporary restraining order for a violation of subsection (a) or subsection (b) of this section upon application therefore by any public or private entity or person and upon compliance with the Idaho rules of civil procedure, except that no bond or security for the issuance of such restraining order shall be required. Further, a violation of subsection (a) or subsection (b) of this section shall subject the person and entities therefore to a preliminary and permanent order of any court of this state enjoining them from such violation and no bond or security shall be required from the plaintiff or applicant therefore.

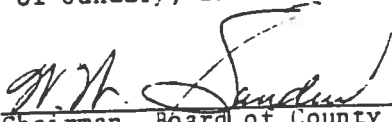
(e) No entity, public or private, nor any person shall be liable for any damages, costs or attorney fees for any acts attempting to civilly or criminally enforce this section.

Section 3. The provisions of this act are hereby declared to be severable and if any provision of this act or the application of such provision to any person or circumstance is declared invalid for any reason, such declaration shall not affect the validity of remaining portions of this act.

Section 4. An emergency existing therefor, which emergency is hereby declared to exist, this Ordinance shall be in full force and effect on and after its passage, approval, and publication, and retroactively to January 1, 1980.

PASSED, under suspension of the rules, at a regular meeting of the Elmore County Board of County Commissioners in the City of Mountain Home, County of Elmore, State of Idaho, held on the 28th day of January, 1980, upon which a roll call vote was duly taken and said Ordinance duly enacted by a unanimous vote as an Ordinance of Elmore County, Idaho.

APPROVED this 28th day of January, 1980.

  
Chairman, Board of County  
Commissioners, Elmore County, Idaho

  
Commissioner, Elmore County, Idaho

  
Commissioner, Elmore County, Idaho

ATTEST:

  
Clerk of the Board of County  
Commissioners